

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

U.S. BANK, NATIONAL ASSOCIATION, in
its capacity as Trustee, JOSHUA N.
TERRY, AND ACIS CAPITAL
MANAGEMENT, LP,

Plaintiff

Case Number

vs.

THE CHARITABLE DONOR ADVISED
FUND, L.P., AND CLO HOLDCO LTD.,

Defendant

Full Caption of Earlier Filed Case:

(including in bankruptcy appeals the relevant adversary proceeding)

Nexpoint Strategic Opportunities Fund

Plaintiff

Case Number

vs.

Acis Capital Management, L.P., U.S. Bank,
N.A., Joshua N. Terry, and Brigade Capital
Management, LP,

Defendant

1:21-cv-04384-GHW

Status of Earlier Filed Case:

☐

Closed

(If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)

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Open

(If so, set forth procedural status and summarize any court rulings.)

Pre-motion conference regarding Defendants' proposed motions to dismiss Plaintiff's second amended complaint is scheduled for January 4, 2021.

Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

This Action and NexPoint Strategic Opportunities Fund v. Acis Capital Management, L.P., et al., Case No. 1:21-cv-04384-GHW (S.D.N.Y.) (the "NexPoint Lawsuit") are related cases under Local Civil Rule 13(a)(1) because (a) this Action and the NexPoint Lawsuit concern the same or substantially similar parties, property, transactions or events; (b) there is substantial factual overlap between this Action and the NexPoint Lawsuit; and (c) there would be a substantial duplication of effort and expense for the Court and the parties if this Action and the NexPoint Lawsuit were not treated as related. As explained in greater detail in the Complaint, Dkt. 1, both this Action and the NexPoint Lawsuit concern the same purchases of collateral securities, alleged to violate the same contractual eligibility tests. The parties to the lawsuits are also similar, as U.S. Bank, National Association, Acis Capital Management, L.P., and Joshua N. Terry are parties to both this Action and the NexPoint Lawsuit, and NexPoint and Defendants are effectively affiliated parties because they are all entities that James Dondero functionally controls. Treating the cases as related would streamline litigation of identical and/or similar issues and avoid duplication of effort and expense by the parties and the Court.

Signature: /s/ Jonathan E. Pickhardt
Quinn Emanuel Urquhart & Sullivan, LLP

Date: December 24, 2021

Firm: _____